

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

* * *

UNITED STATES OF AMERICA.

Plaintiff,

OMAP OAIZI

Defendant

Case No. 2:15-cr-00014-APG-VCF

**ORDER ACCEPTING IN PART REPORT
& RECOMMENDATION REGARDING
DEFENDANT'S MOTION TO SUPPRESS**

(ECF Nos. 129, 158, 176)

10 Defendant Omar Qazi filed a second motion to suppress. ECF No. 129. Magistrate Judge
11 Ferenbach issued a Report & Recommendation recommending I deny the motion or, in the
12 alternative, allow the government to file a substantive response to Qazi's *Miranda* argument. ECF
13 No. 158. Qazi's lawyer filed an objection and Qazi filed an objection on his own. ECF Nos. 173,
14 174. The government moves to strike Qazi's objection because, as a party represented by
15 counsel, he is not allowed to file papers on his own. ECF No. 176. The government is correct and
16 Qazi did not oppose that motion to strike. Therefore, Qazi's objection (ECF No. 174) is stricken.

17 The only issue raised in the objection filed by Qazi's lawyer relates to the *Miranda*
18 warning. ECF No. 173. I have conducted a *de novo* review of the Report & Recommendation and
19 related papers. Judge Ferenbach's Report & Recommendation sets forth the proper legal analysis
20 and factual bases for his recommendations. Thus, I adopt his recommendations on all issues
21 except the *Miranda* argument. With regard to that argument, I accept his alternative
22 recommendation to allow the government to file a substantive response.

Judge Ferenbach found Qazi's *Miranda* argument untimely and to have been waived. ECF No. 158 at 2-3. The original motion deadline was May 25, 2015. ECF No. 17. The parties stipulated to move the trial date for various reasons, including that "Qazi requires additional time to continue filing pre-trial motions. . . ." ECF No. 74 at 2, ¶ 4. Thus, the parties anticipated additional motions. Unfortunately, no new motion deadline was established. Thus, Qazi might

1 reasonably expect that he could continue filing pre-trial motions as stated in that stipulation.
2 Under these circumstances, fairness dictates that I deem Qazi's *Miranda* argument in his second
3 motion to suppress not untimely. However, going forward, no additional pre-trial motions will be
4 permitted absent permission of the court.

5 The government briefly addressed the *Miranda* issue in its response to Qazi's objection.
6 ECF No. 175. However, given that Judge Ferenbach's recommendation was made in the
7 alternative, the government may not have briefed the issue as fully as it intended. Therefore, I
8 will allow the government to file a brief addressing the *Miranda* issue if it chooses; or, it may
9 stand on the argument asserted in its response. Qazi may file a reply to the government's
10 argument. I will refer the *Miranda* issue to Judge Ferenbach.

11 IT IS THEREFORE ORDERED that the government's motion to strike (**ECF No. 176**) is
12 **GRANTED** and Qazi's objection (**ECF No. 174**) is **STRICKEN**. Magistrate Judge Ferenbach's
13 Report & Recommendation (**ECF No. 158**) is **ACCEPTED IN PART**, and Qazi's remaining
14 objection (**ECF No. 173**) is **SUSTAINED IN PART**. With regard to the *Miranda* argument, the
15 government is permitted to file a substantive response by June 23, 2016; or, it may stand on the
16 arguments asserted in its current response (ECF No. 175) to Qazi's objection. Qazi may file a
17 reply to the government's response by July 1, 2016. This matter is referred to Magistrate Judge
18 Ferenbach to address the *Miranda* issue. The remainder of Qazi's motion to suppress (ECF No.
19 129) is **DENIED**.

20 Dated: June 10, 2016.

21 
22 ANDREW P. GORDON
23 UNITED STATES DISTRICT JUDGE
24
25
26
27
28